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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GENOMIC HEALTH, INC.,
Plaintiff and Counter-Defendant,
v.
INCYTE CORPORATION,
Defendant and Counter-Claimant.

No. 10-CV-03643 JSW

**STIPULATION AND ~~PROPOSED~~
ORDER FOR DISMISSAL WITH
PREJUDICE**

Hon. Jeffrey S. White

WHEREAS, Plaintiff and Counter-Defendant, Genomic Health, Inc., and Defendant and Counter-Claimant, Incyte Corporation, have reached a confidential settlement of this case. As part of this confidential settlement, the parties have agreed to the entry of this Stipulated Dismissal with Prejudice, including the terms and conditions set forth below.

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto, through their respective counsel, as follows:

1. The Court shall retain jurisdiction over the parties to the extent necessary to enforce the terms of this Stipulation for Dismissal with Prejudice and the confidential settlement agreement reached between the parties, the terms of which are expressly incorporated herein by reference as though fully set forth.

2. This Stipulation for Dismissal shall be binding upon and shall inure to the benefit of Genomic Health, Inc. and Incyte Corporation and each of their respective licensees, subsidiaries, corporate parents, affiliates, and/or successors and assigns.

3. Each side shall bear its own costs and fees.

4. This action is hereby fully DISMISSED WITH PREJUDICE.

DATED: May 2, 2011

MCDERMOTT WILL & EMERY, LLP

By: /s/ William G. Gaede, III
William G. Gaede, III

Attorneys for Genomic Health, Inc.

DATED: May 2, 2011

WILMER CUTLER PICKERING
HALE AND DORR LLP

By: /s/ Mark D. Flanagan
Mark D. Flanagan

Attorneys for Incyte Corporation

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SIGNATURE ATTESTATION

Pursuant to General Order 45.X(B), I hereby attest that concurrence has been obtained from Mark D. Flanagan indicated by a “conformed” signature (/s/) within this e-filed document.

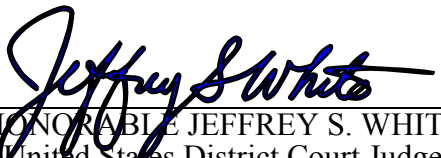
/s/ William G. Gaede, III
William G. Gaede, III

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DISMISSAL WITH PREJUDICE

IT IS SO ORDERED that, pursuant to the parties’ stipulation and the confidential settlement agreement, this case and the counterclaims thereto are hereby dismissed **with prejudice**.

DATED: May 3, 2011


HONORABLE JEFFREY S. WHITE
United States District Court Judge